

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

391B0206

HOUSE BILL NO. 1321

Introduced by: Representatives Hagg, Brown (Richard), Crisp, de Hueck, Eccarius, Fiegen, Fitzgerald, Hunt, Kooistra, Koskan, and Van Gerpen and Senators Whiting, Aker, Daugaard, Dunn (Rebecca), and Hainje

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding civil liability as it
2 relates to injuries caused by intoxicated persons.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 35-4-78 be amended to read as follows:

5 35-4-78. No licensee may sell any alcoholic beverage:

6 (1) To any person under the age of twenty-one years; or

7 (2) To any person who is obviously intoxicated at the time.

8 A violation of this section is a Class 1 misdemeanor.

9 ~~However, no licensee is civilly liable to any injured person or his estate for any injury~~
10 ~~suffered, including any action for wrongful death, or property damage suffered because of the~~
11 ~~intoxication of any person due to the sale of any alcoholic beverage in violation of the provisions~~
12 ~~of this section.~~

13 Section 2. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Any licensee that sells alcoholic beverages to a person under twenty-one years of age or a

1 person obviously intoxicated is civilly liable for the death or injury of any person, or damage to
2 any property, if such sale of alcoholic beverages constitutes the proximate cause of the death,
3 injury, or property damage.

4 Section 3. That § 35-11-1 be repealed.

5 ~~— 35-11-1. The Legislature finds that the consumption of alcoholic beverages, rather than the~~
6 ~~serving of alcoholic beverages, is the proximate cause of any injury inflicted upon another by an~~
7 ~~intoxicated person. Therefore, the rule in Walz v. City of Hudson, 327 N.W. 2nd 120 (S.D.~~
8 ~~1982) is hereby abrogated.~~